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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,556	10/17/2001	Arnold G. Slezak	P1535US01	6786

7590 12/17/2004
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EXAMINER

TUGBANG, ANTHONY D

ART UNIT	PAPER NUMBER
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3729

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/981,556	Applicant(s) SLEZAK, ARNOLD G.	
	Examiner A. Dexter Tugbang	Art Unit 3729	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

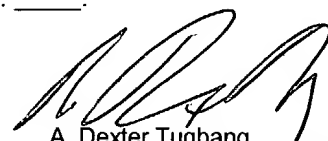
Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-9.

Claim(s) withdrawn from consideration: 10-20.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


 A. Dexter Tugbang
 Primary Examiner
 Art Unit: 3729

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Attachment to Advisory Action

I. Withdrawal of the Final Rejection

Regarding the finality of the Final Rejection, the examiner notes that MPEP § 706.07(a) states:

...any second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims...

The examiner reiterates his position from the interview (on 11/12/04) that the new grounds of rejection was necessitated by the amendment to the claims, particularly Claim 1. In the amendment filed on 6/18/04, Claim 1 was amended to include new limitations drawn to "an angular reference axis", as these limitations were now introduced for the first time during prosecution. These new limitations drawn to the claimed "angular reference axis" is what specifically caused the examiner to introduce a new grounds of rejection. The applicant(s) argue that the claims were broadened and not narrowed. However, Claim 1 in its entirety was not broadened, but narrowed in at least the aspects directed to the "angular reference axis". Therefore, the finality of the last Office Action (dated 9/30/04) is not considered to be premature, but appears to be proper, and is hereby maintained by the examiner.

II. Proposed Amendment to the Claims

The proposed After Final amendment filed on 11/30/04 adds new limitations to Claim 1, particularly the new recitations of "a common angular reference axis" (line 3) and "to concentrically align" (line 8), as these new limitations narrow the scope of the claims requiring further consideration and search by the examiner.

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Furthermore, the amendment also proposes to add new Claims 21-33, without canceling a corresponding number of finally rejected claims. The new claims also raises new issues requiring further consideration and search by the examiner.